

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Revision of Part 22 and)
Part 90 of the Commission's)
Rules to Facilitate Future)
Development of Paging Systems)

WT Docket No. 96-18

Implementation of Section)
309(j) of the Communications)
Act -- Competitive Bidding)

PP Docket No. 93-253

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To: The Commission

COMMENTS ON NOTICE OF PROPOSED RULEMAKING
INTERIM LICENSING PROPOSAL

Pagers Plus, by its attorney and pursuant to Section 1.415(a) of the Commission's Rules, hereby submits its comments with respect to that aspect of the above-captioned Notice of Proposed Rulemaking ("NPRM") which sets forth an interim proposal for licensing paging facilities during the pendency of the proceeding^{1/}. NPRM ¶139 et seq.

1. Pagers Plus is the incumbent licensee of a 929 MHz Private Carrier Paging ("PCP") system in California. Accordingly, Pagers Plus is an "interested person" with standing to comment in the instant proceeding.

2. The Commission has imposed a freeze on the filing of applications for new PCP facilities and major modifications, and seeks comment on procedures for interim licensing of PCP facili-

^{1/}The Commission has bifurcated the instant docket. The Commission has established a deadline of March 1, 1996, to comment on the interim licensing proposal. A later deadline has been established for other aspects of the NPRM. Pagers Plus hereby reserves the right to comment on other aspects of the NPRM on or before that later deadline.

ties during the pendency of the instant proceeding. With respect to the 929 MHz band, the Commission also proposes to suspend action on all pending "exclusivity" requests. NPRM ¶148.

3. Pagers Plus respectfully requests clarification as to the proposed treatment of exclusivity requests filed pursuant to the "finder's preference" program, Construction, Licensing and Operation of Private Land Mobile Radio Stations, PR Docket No. 90-481, 6 FCC Rcd 7297, 7304-7309 (1991), recon. granted in part, 8 FCC Rcd 6690 (1993), submitted during the interim period. The NPRM recognizes that under the current PCP exclusivity rules, permanent exclusivity is awarded only when the licensee demonstrates that it has constructed and is operating a qualified system, NPRM ¶148, or otherwise the exclusive status is forfeited. Channel Exclusivity, PR Docket No. 93-35, 8 FCC Rcd 8318, 8237 (1993), recon. granted in part, FCC 96-53 (released February 13, 1996). The "finder's preference" rules apply to PCP licensees who obtain exclusive frequency assignments and then fail to construct or operate their systems as proposed. Id. at n.47. Under such procedures, an applicant who assists the FCC in identifying and recovering an unused PCP channel may seek a dispositive preference for an exclusive license on that channel. Rule Section 90.173(k).

4. A finder's preference request based on a failure-to-construct-or-place-in-operation violation may not be filed less than 180 days after the construction deadline of the target licensee. Rule Section 90.173(k)(1). Under these circumstances,

finders who were precluded by the Rule Section 90.173(k)(1) waiting period from filing finder's preference requests prior to February 7, 1996, will be deprived of due process if they are barred from asserting and obtaining action on their claims during the interim period.

Pagers Plus therefore respectfully requests the Commission to clarify that channel exclusivity requests submitted pursuant to the finder's preference program will continue to be accepted and processed during the interim period.

Respectfully submitted,

PAGERS PLUS

By



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